UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Equity No. 87-273

HARRY NORMAN BALL, TRUSTEE,
Petitioner

UNITED STATES OF AMERICA,
Plaintiff

vs.

PARAMOUNT PICTURES, INC., ET AL.,
Defendants

JURISDICTIONAL STATEMENT

The present case is in this Court as the result of a mandate of the Supreme Court of the United States directing this Court to proceed in conformity with the opinion of the Supreme Court in 334 U. S. 131.

On March 3, 1949, this Court denied the motion of the petitioner to intervene. The motion of the petitioner to intervene was based upon the contention that under Rule 24 of the Federal Rules of Civil Procedure the petitioner was entitled to intervene as a matter of right as well as a matter of discretion of this Court.

Petitioner sought to intervene on the ground that representation of his interests by the existing parties has been and will continue to be inadequate in that petitioner will be adversely affected by the judgment entered by this Court

on March 3, 1949, and that petitioner will be adversely affected by the disposition of a motion picture theatre which is subject to the control of this Court and which is in fact dealt with in said judgment.

Petitioner also sought to intervene to have this Court include in the judgment entered on March 3, 1949, provisions for the public interest protecting the petitioner and others similarly situated against illegal fruits of the defendants' monopoly. Petitioner asserts that the judgment entered by this Court on March 3, 1949, does not carry out the mandate of the Supreme Court in that it ignores the mandate of the Supreme Court that defendants should disgorge the fruits of their monopoly and in that petitioner should have been permitted to intervene and to prove that one of the theatres of Paramount Pictures, Inc., is an illegal fruit of said defendant's monopoly which it should disgorge.

Statutes under which jurisdiction of the Supreme Court of the United States is invoked are 28 U. S. C. 2101(b) and 15 U. S. C. 29, which read as follows:

> "In every suit in equity brought in any district court of the United States under any of the laws mentioned in the preceding sections wherein the United States is complainant, an appeal from the final decree of the district court will lie only to the Supreme Court . . ."

The following cases, it is believed, sustain jurisdiction:

Missouri-Kansas Pipe Line Co. v. *Columbia Gas & Elec. Cpn.*, 110 F(2) 15;

United States v. *California Cooperative Canneries*, 279 U. S. 553;

Missouri-Kansas Pipe Line Co. v. *United States*, 312 U. S. 502;

Allen Calculators v. *National Cash Register & United States*, 322 U. S. 137.

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The application for intervention was denied from the Bench. No opinion was written or filed. The date of the decree sought to be reversed is March 3, 1949. Petition for appeal was presented on April 7, 1949.

AARON LIPPER,
Attorney for Petitioner.

HYMAN SCHWARTZ,
Of Counsel.